

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MICHAEL LOVE,)	
)	
Plaintiff,)	
)	
v.)	No. 02-2478 M1
)	
SHELBY COUNTY SHERIFF'S)	
DEPARTMENT,)	
)	
Defendant.)	

ORDER GRANTING DEFENDANT'S MOTION TO STAY ALL PROCEEDINGS TO
ENFORCE JUDGMENT WITHOUT REQUIRING A SUPERSEDEAS BOND

Before the Court is Defendant's Motion to Stay all Proceedings to Enforce Judgment without Requiring a Supersedeas Bond, filed May 16, 2006. In the attached Certificate of Consultation, Defendant's counsel certified that he consulted with counsel for Plaintiff on this matter, and Plaintiff's counsel advised that she could not consent to the motion, but would not oppose it.

On August 13, 2004, the Court entered a judgment against Defendant in the amount of \$303,330.00. Defendant subsequently moved for judgment as a matter of law, a new trial, and for remittitur. The Court denied Defendant's motion on April 20, 2006. Defendant filed a notice of appeal to the Sixth Circuit Court of Appeals on May 11, 2006, and now moves to stay execution of the judgment without requiring a supersedeas bond.

Rule 62(d) of the Federal Rules of Civil Procedure provides that "[w]hen an appeal is taken the appellant by giving a supersedeas bond may obtain a stay" of the proceedings to enforce a judgment. Fed. R. Civ. P. 62(d). The Sixth Circuit has recognized that this Rule "in no way necessarily implies that filing a bond is the only way to obtain a stay" and that "an inflexible requirement of a bond would be inappropriate . . . where the defendant's ability to pay the judgment is so plain that the cost of the bond would be a waste of money." Arban v. West Pub. Corp., 345 F.3d 390, 409 (6th Cir. 2003)(quoting Federal Prescription Serv., Inc. v. Am. Pharm. Ass'n, 636 F.2d 755, 759 (D.C. Cir. 1980) and Olympia Equip. Leasing Co. v. Western Union Tel. Co., 786 F.2d 794, 796 (7th Cir. 1986)).

In support of its motion, Defendant submitted the affidavit of James Huntzicker, the Director of Finance for Shelby County, Tennessee,¹ which states, in part, that Shelby County has "more than adequate resources" to satisfy the judgment in this case if affirmed on appeal. The affidavit also sets forth the sources and amounts of Shelby County's revenue, which greatly exceed the amount of the judgment in this case.

In light of the foregoing authority and Defendant's showing of good cause, the Court GRANTS Defendant's Motion for an Order

¹ The Shelby County Sheriff's Department is a division of the Shelby County Government.

Staying All Proceedings to Enforce Judgment without Requiring a Supersedeas Bond. All proceedings to enforce the judgment entered in this case on August 13, 2004, are hereby STAYED, without a superseadeas bond, pending the outcome of Defendant's appeal.

So ORDERED this 19th day of June, 2006.

/s/ Jon P. McCalla
JON P. McCALLA
UNITED STATES DISTRICT JUDGE